

**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Mortgage Broker Practices Act of Washington by:

First Northwest Mortgage Corp., and

Christopher J. Nickel,  
President and Designated Broker,  
Respondents.

NO. C-02-194-03-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENT TO ISSUE AN ORDER  
TO REVOKE LICENSE, IMPOSE FINES,  
COLLECT INVESTIGATIVE FEES, PAY  
RESTITUTION AND PROHIBIT FROM  
PARTICIPATION IN THE MORTGAGE  
BROKER INDUSTRY

**INTRODUCTION**

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director ("Director") of the Department of Financial Institutions of the State of Washington ("Department") is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act ("Act"). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation, and based upon the facts available as of July 24, 2003, the Director institutes this proceeding and finds as follows:

**I. FACTUAL ALLEGATIONS**

**1.1 Respondents:**

A. **First Northwest Mortgage Company** ("First Northwest") is known to conduct the business of a mortgage broker at:

3535 Factoria Boulevard. SE, Suite 520  
Bellevue, Washington 98006.

B. **Christopher J. Nickel** ("Nickel") is President of First Northwest and was named by First Northwest to be its Designated Broker. He was approved by the Department as the Designated broker for First Northwest on October 17, 2001.

1 **1.2 License:** On November 24, 1999, First Northwest filed an application with the Department of Financial  
2 Institutions for a license to conduct business as a mortgage broker in the State of Washington (“Department”).

3 A license to conduct business as a mortgage broker was granted to First Northwest on March 14, 2000.

4 **1.3 Unlicensed Activity:** From February 2001, until August 2001, First Northwest conducted the business  
5 of a mortgage broker at Smokey Point Mortgage, 3325 Smokey Point Drive, Arlington, Washington (“Smokey  
6 Point”) without a license to do so. The Department had not granted a license to conduct the business of a  
7 mortgage broker at that location. At least nine loans were originated from that location.

8 **1.3 Aiding and Abetting Unlicensed Activity:** At least five individuals conducted the business of a  
9 mortgage broker from February 2001, until August 2001, for the Smokey Point location that produced  
10 residential mortgage loans for First Northwest. First Northwest and Nickel aided and abetted these five  
11 individuals in conducting unlicensed activity on behalf of First Northwest.

## 12 **II. GROUNDS FOR ENTRY OF ORDER**

13 **2.1 Licensing Requirement:** Pursuant to RCW 19.146.200(1), a person may not engage in the business of  
14 a mortgage broker without first obtaining a license. Pursuant to RCW 19.146.265, a licensed mortgage broker  
15 must obtain a branch office license for any branch office. Based on the information contained in the Factual  
16 Allegations above, Respondents are in apparent violation of RCW 19.146.200(1) and RCW 19.146.265.

17 **2.2 Unfair or Deceptive Practice:** Pursuant to RCW 19.146.0201(1), (2) and (3), a mortgage broker  
18 required to be licensed may not employ any scheme, device, or artifice to defraud or mislead borrowers, engage  
19 in any unfair or deceptive practice toward any person, or obtain property by fraud or misrepresentation. Based  
20 on the information contained in the Factual Allegations above, Respondents are in apparent violation of RCW  
21 19.146.0201(1), (2) and (3).

22 **2.3 Authority to Revoke License:** Pursuant to RCW 19.146.220(2)(b)(iv), the Director may revoke a  
23 license for violation of RCW 19.146.0201(1), (2) and (3), and RCW 19.146.265. Pursuant to WAC 208-660-  
24 160(7), the Director may revoke a license for violating the Act. Pursuant to WAC 208-660-160(10) the  
25 Director may revoke a license for aiding and abetting an unlicensed person to practice in violation of the Act.

1 **2.4 Authority to Charge Examination Fee:** Pursuant to RCW 19.146.228(2), and WAC 208-660-060(2), upon  
2 completion of any examination of the books and records of a licensee, the Department will furnish to the licensee a  
3 billing to cover the cost of the examination. The examination charge will be calculated at the rate of \$46.26 per hour  
4 that each staff person devoted to the examination.

5 **2.5 Authority to Impose Fine:** Pursuant to RCW 19.146.220(2)(c)(i) and WAC 208-660-165, the Director  
6 may impose fines on the licensee for failure to comply RCW 19.146.0201(1), (2) and (3), RCW 19.146.200 and  
7 RCW 19.146.265.

8 **2.6 Authority to Prohibit from the Industry:** Pursuant to RCW 19.146.220(2)(e)(i), the Director may  
9 prohibit a covered individual from participation in the conduct of the affairs of a licensed mortgage broker for failure  
10 to comply RCW 19.146.0201(1), (2) and (3), RCW 19.146.200 and RCW 19.146.265.

11 **2.7 Authority to Order Payment of Restitution:** Pursuant to RCW 19.146.220(2)(d)(ii), the Director  
12 may issue an order directing a licensee, its employee or loan originator to pay restitution to an injured borrower.

### 13 **III. NOTICE OF INTENT TO ENTER ORDER**

14 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth in  
15 the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW  
16 19.146.220. Therefore, it is the Director's intention to ORDER that:

- 17 3.1 The license of First Northwest Mortgage Corp. to conduct the business of a mortgage broker be  
18 revoked; and
- 19 3.2 Respondents pay an examination fee to be calculated at \$46.26 per hour for each staff hour devoted  
20 to the investigation; and
- 21 3.3 Respondents pay a fine of \$21,200.00 calculated at \$100.00 per day for at least 212 days of operation  
22 without a license; and
- 23 3.4 Respondents pay \$27,983.80 in restitution to injured borrowers for loan fees paid for loans originated  
24 from an unlicensed location; and
- 25 3.5 Christopher J. Nickel be prohibited from participation in the conduct of the affairs of any licensed  
mortgage broker for a period of five (5) years.

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1 **IV. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intent to Issue an Order to Revoke License, Impose Fines, Collect  
3 Investigative Fees, Pay Restitution and Prohibit from Participation in the Mortgage Broker Industry is entered  
4 pursuant to the provisions of RCW 19.146.220, RCW 19.146.221 and RCW 19.146.230, and is subject to the  
5 provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may make a written  
6 request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY  
7 FOR HEARING accompanying this Statement of Charges and Notice of Intent to Issue an Order to Revoke  
8 License, Impose Fines, Collect Investigative Fees, Pay Restitution and Prohibit from Participation in the Mortgage  
9 Broker Industry.

10 Dated this 24th day of July, 2003.

11 /S/  
12 CHUCK CROSS, ACTING DIRECTOR  
13 DIVISION OF CONSUMER SERVICES  
DEPARTMENT OF FINANCIAL INSTITUTIONS

14 Presented by:

15 /S/  
16 James R. Brusselback  
17 Supervisor, Investigation and Enforcement  
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**RCW 19.146.0201 Loan originator, mortgage broker – Prohibitions – Requirements.** It is a violation of this chapter for a loan originator, mortgage broker required to be licensed under this chapter, or mortgage broker otherwise exempted from this chapter under RCW 19.146.020(1) (d) or (f) in connection with a residential mortgage loan to:

- (1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;
- (2) Engage in any unfair or deceptive practice toward any person;
- (3) Obtain property by fraud or misrepresentation;

**RCW 19.146.200 License – Required – Independent contractor – Suit or action as mortgage broker – Display of license.** (1) A person may not engage in the business of a mortgage broker, except as an employee of a person licensed or exempt from licensing, without first obtaining and maintaining a license under this chapter. However, a person who independently contracts with a licensed mortgage broker need not be licensed if the licensed mortgage broker and the independent contractor have on file with the director a binding written agreement under which the licensed mortgage broker assumes responsibility for the independent contractor's violations of any provision of this chapter or rules adopted under this chapter; and if the licensed mortgage broker's bond or other security required under this chapter runs to the benefit of the state and any person who suffers loss by reason of the independent contractor's violation of any provision of this chapter or rules adopted under this chapter. . . .

**RCW 19.146.220 Director – Powers and duties – Violations as separate violations – Rules.** (1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to mortgage brokers, and hold hearings.

(2) The director may impose the following sanctions:

(a) Deny applications for licenses for: (i) Violations of orders, including cease and desist orders issued under this chapter; or (ii) any violation of RCW 19.146.050 or 19.146.0201 (1) through (9);

(b) Suspend or revoke licenses for:

(i) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(ii) Failure to pay a fee required by the director or maintain the required bond;

(iii) Failure to comply with any directive or order of the director; or

(iv) Any violation of RCW 19.146.050, 19.146.060(3), 19.146.0201 (1) through (9) or (12), 19.146.205(4), or 19.146.265;

(c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:

(i) Any violations of RCW 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or

(ii) Failure to comply with any directive or order of the director;

(d) Issue orders directing a licensee, its employee or loan originator, or other person subject to this chapter to:

(i) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter; or

(ii) Pay restitution to an injured borrower; or

(e) Issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this chapter for:

(i) Any violation of 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or

(ii) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(iii) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or

(iv) Failure to comply with any directive or order of the director.

(3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

1 **RCW 19.146.221 Action by director – Hearing – Sanction.** The director may, at his or her discretion and as provided  
2 for in \*RCW 19.146.220(2), take any action specified in RCW 19.146.220(1). If the person subject to such action does  
3 not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on  
4 the action then the person shall be deemed to consent to the action. If the person subject to the action consents, or if after  
5 hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist,  
6 then the director may impose any sanction authorized by this chapter. [1994 c 33 § 13.]

7 **RCW 19.146.223 Director – Administration and interpretation.** The director shall have the power and broad  
8 administrative discretion to administer and interpret the provisions of this chapter to fulfill the intent of the legislature  
9 as expressed in RCW 19.146.005. [1994 c 33 § 2.]

10 **RCW 19.146.225 Director – Rule-making powers.** In accordance with the administrative procedure act, chapter 34.05  
11 RCW, the director may issue rules under this chapter only after seeking the advice of the mortgage brokerage  
12 commission and to govern the activities of licensed mortgage brokers and other persons subject to this chapter. [1994 c  
13 33 § 15; 1993 c 468 § 9.]

14 **RCW 19.146.228 Fees – Rules – Exception.** The director shall establish fees by rule in accordance with RCW 43.24.086  
15 sufficient to cover, but not exceed, the costs of administering this chapter. These fees may include:

- 16 (1) An annual assessment paid by each licensee on or before a date specified by rule;  
17 (2) An investigation fee to cover the costs of any investigation of the books and records of a licensee or other person  
18 subject to this chapter; and  
19 (3) An application fee to cover the costs of processing applications made to the director under this chapter.

20 Mortgage brokers shall not be charged investigation fees for the processing of complaints when the investigation  
21 determines that no violation of this chapter occurred or when the mortgage broker provides a remedy satisfactory to the  
22 complainant and the director and no order of the director is issued. All moneys, fees, and penalties collected under the  
23 authority of this chapter shall be deposited into the banking examination fund, unless the consumer services account is  
24 created as a dedicated, nonappropriated account, in which case all moneys, fees, and penalties collected under this chapter  
25 shall be deposited in the consumer services account. [1997 c 106 § 13; 1994 c 33 § 9.]

**RCW 19.146.230 Administrative procedure act application.** The proceedings for denying license applications, issuing  
cease and desist orders, suspending or revoking licenses, and imposing civil penalties or other remedies issued pursuant  
to this chapter and any appeal therefrom or review thereof shall be governed by the provisions of the administrative  
procedure act, chapter 34.05 RCW. [1994 c 33 § 16; 1993 c 468 § 10.]

**RCW 19.146.265 Branch offices – Fee – Licenses – Rules.** A licensed mortgage broker may apply to the director for  
authority to establish one or more branch offices under the same or different name as the main office upon the payment of  
a fee as prescribed by the director by rule. Provided that the applicant is in good standing with the department, as defined  
in rule by the director, the director shall promptly issue a duplicate license for each of the branch offices showing the  
location of the main office and the particular branch. Each duplicate license shall be prominently displayed in the office  
for which it is issued. [1997 c 106 § 19; 1994 c 33 § 24; 1993 c 468 § 18.]

1 **WAC 208-660-060 Department's fees and assessments.**

2 . . . .

3 (2) Upon completion of any examination of the books and records of a licensee, the department will furnish to the  
4 licensee a billing to cover the cost of the examination. The examination charge will be calculated at the rate of \$46.26  
5 per hour that each staff person devoted to the examination. The examination billing will be paid by the licensee promptly  
6 upon receipt. Licensees that were issued licenses prior to March 21, 1994, have prepaid in their initial license fee the  
7 cost of the first compliance examination of the licensee conducted by the department during the first two years after the  
8 date of issuance of the license.

9 . . . .

10 **WAC 208-660-160 License application denial or condition; license suspension or revocation.** The director may  
11 deny or condition approval of a license application, or suspend or revoke a license if the applicant or licensee, or any  
12 principal or designated broker of the applicant or licensee:

13 . . . .

14 (7) Has violated the provisions of the Mortgage Broker Practices Act, or the Consumer Protection Act;

15 . . . .

16 (10) Has aided or abetted an unlicensed person to practice in violation of the Mortgage Broker Practices Act;

17 . . . .

18 **WAC 208-660-165 Fines and penalties for violation of the Mortgage Broker Practices Act.** Each mortgage  
19 broker and each of its principals, designated brokers, officers, employees, independent contractors, and agents shall  
20 comply with the applicable provisions of the Mortgage Broker Practices Act. Each violation of any applicable provision  
21 of the Mortgage Broker Practices Act, or of any order, directive, or requirement of the director may, at the discretion of  
22 the director, subject the violator to a fine of up to one hundred dollars for each offense. Each day's continuance of the  
23 violation is a separate and distinct offense. In addition, the director in his or her discretion may by order assess other  
24 penalties for a violation of the Mortgage Broker Practices Act.